IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.8178 of 1999

M.A.Elangovan .. Petitioner

vs.

1. The Commissioner
   Ambattur Municipality
   Chennai

2. The Director of Municipal Admn.
   Chepauk, Chennai-5 .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent in proceedings Na.Ka.13860/96/E1, dated 19.3.1999 and quash the same.

For petitioner : Mr.P.Palaninathan
For respondents : Mr.G.Sankaran for R1
Mr.V.Manokaran
Government Advocate for R2

O R D E R

Heard Mr.P.Palaninathan, the learned counsel appearing for the petitioner and Mr.G.Sankaran, the learned counsel appearing for the first respondent, as well as Mr.V.Manokaran, the learned Government Advocate appearing for the second respondent.

2. It is stated by the petitioner that he is a registered contractor and he has been executing works such as laying of roads and drainage work for the first respondent Municipality. The petitioner has been executing the contract work, periodically, for the first respondent Municipality and at no point of time there was any complaint in respect of the work carried out by the petitioner.

3. It is further stated by the petitioner that one of the

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contract works executed by the petitioner for the first respondent Municipality was laying of B.T. surface to M.G.R. Adarsh School Road at the estimated cost of Rs.2,46,000/-. The said work had been entrusted to the petitioner in the year, 1995 and it was completed in the year, 1996. Even though the said work was completed as per the estimated value under the supervision of the Engineers of the first respondent Municipality, the first respondent had issued a memo, dated 2.7.1997, stating that on receipt of a complaint, the Director of Municipal Administration, the second respondent herein, had appointed the special investigation team to inspect the site.

4. It is further stated by the petitioner that after inspection, the special investigation team had pointed out certain defects as per which payment of excess amount had been assessed and the petitioner was asked to show cause as to why the excess payment made should not be recovered from him. The petitioner had sent a reply, dated 3.8.1997. Later, the first respondent had issued a show cause notice, dated 26.11.1998, asking the petitioner to show cause as to why his name should not be placed in the black list. In spite of the reply sent by the petitioner, the first respondent, without considering the facts and circumstances of the case, had passed an order in his proceedings Na.Ka.13860/96/E1, dated 19.3.1999. In such circumstances, the petitioner has come before this Court invoking Article 226 of the Constitution of India.

5. The main contention of the petitioner is that the impugned order has been passed in gross violation of the principles of natural justice and in an arbitrary manner, without furnishing to the petitioner the report of the inspection.

6. Therefore, the learned counsel appearing for the petitioner had prayed that this Court may be pleased to set aside the impugned order, dated 19.3.1999, and remit the matter back to the first respondent to pass fresh orders, after giving sufficient opportunity to the petitioner to put forth his case to substantiate his claims.

7. The learned counsels appearing on behalf of the respondents had no objection for such an order being passed by this Court.

8. Based on the submissions made by the learned counsels appearing on behalf of the parties concerned, the impugned order, dated 19.3.1999, is set aside and the matter is remitted back to the first respondent directing the petitioner to submit his representation to the first respondent along with all the necessary records, in support of his claims, within a period of two weeks from today. On such representation being made, the first respondent is directed to decide the matter afresh and pass appropriate orders thereon, on merits and in accordance with law, within a period of eight weeks from

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the date of submission of the representation, after giving sufficient opportunity to the petitioner.

The writ petition is ordered accordingly. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner
   Ambattur Municipality
   Chennai

2. The Director of Municipal Admn.
   Chepauk, Chennai-5

+1cc to Mr.A.Sasidharan, Advocate Sr 74609

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km/3.1.

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